

# HOUSE BILL 214

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By: **Chair, Environmental Matters Committee (By Request – Departmental – Agriculture)**

Introduced and read first time: January 28, 2011

Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation – Critical Farms Fund**  
3 **and Program**

4 FOR the purpose of authorizing the Maryland Agricultural Land Preservation  
5 Foundation to acquire certain interests in property for certain purposes, and to  
6 dispose of that property under certain circumstances in accordance with the  
7 Critical Farms Program; requiring the development of a certain method and a  
8 certain procedure for a certain purpose; establishing the Critical Farms Fund  
9 for the acquisition of certain easements under the Critical Farms Program and  
10 the Farmland Preservation Partnership Program; clarifying that the Governor  
11 may include a certain appropriation in the annual budget; requiring the  
12 Foundation to submit a certain report to the General Assembly under a certain  
13 circumstance; exempting certain dispositions of real property from approval by  
14 the Board of Public Works; and generally relating to the Maryland Agricultural  
15 Land Preservation Foundation's Critical Farms Program.

16 BY repealing and reenacting, with amendments,  
17 Article – Agriculture  
18 Section 2–504, 2–505(c), 2–517, and 2–517.1  
19 Annotated Code of Maryland  
20 (2007 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, without amendments,  
22 Article – Agriculture  
23 Section 2–505(a) and (b)  
24 Annotated Code of Maryland  
25 (2007 Replacement Volume and 2010 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article – State Finance and Procurement

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 10–302.1  
2 Annotated Code of Maryland  
3 (2009 Replacement Volume and 2010 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article – Agriculture**

7 2–504.

8 The Maryland Agricultural Land Preservation Foundation has the following  
9 general powers:

10 (1) To sue and be sued in contractual matters in its own name;

11 (2) To enter into contracts generally and to execute all instruments  
12 necessary or appropriate to carry out its purposes;

13 (3) To acquire, by gift, purchase, devise, bequest or grant, easements  
14 in gross or other rights to restrict the use of agricultural land and woodland as may be  
15 designated to maintain the character of the land as agricultural land or woodland;

16 **(4) TO ACQUIRE AND HOLD, BY GIFT, PURCHASE, DEVISE,**  
17 **BEQUEST OR GRANT, REAL AND PERSONAL PROPERTY, OR ANY INTEREST**  
18 **THEREIN, TO CARRY OUT THE LEGISLATIVE INTENT OF PRESERVING PRIME**  
19 **AGRICULTURAL LAND AND WOODLAND AND CONSERVING, IMPROVING,**  
20 **ADMINISTERING, INVESTING, OR DISPOSING OF ANY PROPERTY TO FURTHER**  
21 **THE PURPOSES OF THE CRITICAL FARMS PROGRAM UNDER THIS SUBTITLE;**

22 **[(4)] (5)** To adopt, with the approval of the Secretary, regulations  
23 and procedures necessary to implement the provisions of this subtitle; and

24 **[(5)] (6)** To promote the dissemination of information to farmers  
25 throughout the State concerning the activities of the Foundation.

26 2–505.

27 (a) The Maryland Agricultural Land Preservation Fund is created and  
28 continued for the purposes specified in this subtitle.

29 (b) The Maryland Agricultural Land Preservation Fund shall comprise:

30 (1) Any money made available to the Fund by general or special fund  
31 appropriations; and

1           (2) Any money made available to the Fund by grants or transfers from  
2 governmental or private sources.

3           (c) (1) The Comptroller of the Treasury may not disburse any money from  
4 the Maryland Agricultural Land Preservation Fund other than:

5                   (i) For costs associated with the staffing and administration of  
6 the Maryland Agricultural Land Preservation Foundation;

7                   (ii) For reasonable expenses incurred by the members of the  
8 board of trustees of the Maryland Agricultural Land Preservation Foundation in the  
9 performance of official duties; [and]

10                   (iii) For consideration in the purchase of agricultural land  
11 preservation easements beginning with fiscal year 1979 and each fiscal year  
12 thereafter; AND

13                           **(IV) FOR COSTS ASSOCIATED WITH ACQUISITION OF**  
14 **AGRICULTURAL LAND PRESERVATION EASEMENTS APPROVED BY THE**  
15 **FOUNDATION THROUGH THE CRITICAL FARMS PROGRAM, AS PROVIDED IN §**  
16 **2-517 OF THIS SUBTITLE.**

17           (2) The Maryland Agricultural Land Preservation Foundation may  
18 provide grants to the Maryland Agricultural and Resource-Based Industry  
19 Development Corporation, subject to conditions jointly agreed upon by the Foundation  
20 and the Corporation, to facilitate:

21                   (i) An installment purchase agreement program; or

22                   (ii) The funding of the Next Generation Farmland Acquisition  
23 Program.

24           (3) The Maryland Agricultural Land Preservation Foundation may  
25 provide grants to counties to facilitate:

26                   (i) The Critical Farms Program, as provided in § 2-517 of this  
27 subtitle, subject to conditions jointly agreed upon by the Foundation and the county;

28                   (ii) The purchase of easements under a county installment  
29 purchase agreement program approved by the Foundation, as provided in § 2-510.1 of  
30 this subtitle; and

31                   (iii) The payment of the principal of and interest on bonds issued  
32 by a county for the sole purpose of purchasing agricultural land preservation  
33 easements that meet the requirements of this subtitle, subject to conditions jointly  
34 agreed upon by the Foundation and the county.

1 (4) Grants provided by the Maryland Agricultural Land Preservation  
2 Foundation may not be:

3 (i) Used to fund county land preservation programs; or

4 (ii) Pledged to secure county-issued bonds.

5 2-517.

6 (a) (1) The Maryland Agricultural Land Preservation Foundation [and  
7 the Department of Planning] shall establish a Critical Farms Program **THAT IS**  
8 **SEPARATE AND INDEPENDENT FROM THE REQUIREMENTS OF THE MARYLAND**  
9 **AGRICULTURAL LAND PRESERVATION PROGRAM ESTABLISHED UNDER THIS**  
10 **SUBTITLE.**

11 (2) The purpose of the Program is to provide interim or emergency  
12 financing for the acquisition of agricultural preservation easements on critical farms  
13 that would otherwise be sold for nonagricultural uses.

14 (b) (1) **[A] THE FOUNDATION, WITH** county **APPROVAL**, shall determine  
15 if a property qualifies for the Critical Farms Program in accordance with the criteria  
16 developed under paragraph (2) of this subsection.

17 (2) (i) The Foundation [and], **IN CONSULTATION WITH** the  
18 Department **OF PLANNING**, shall develop criteria for counties to consider when  
19 determining whether a property qualifies for the Program.

20 (ii) The criteria shall include:

21 1. The qualifying strategic characteristics of the  
22 property, including location and productivity;

23 2. The circumstances creating the risk of the property  
24 being sold for nonagricultural purposes;

25 3. When applicable, the characteristics of the purchaser  
26 of strategic farmland seeking assistance from the Program;

27 4. The consistency of the proposed acquisition with  
28 county goals and priorities and, **IF APPLICABLE**, the county's priority preservation  
29 area; and

30 5. Evaluation of the property as a priority easement  
31 acquisition.

1 [(c) The Maryland Agricultural Land Preservation Foundation and the  
2 Department of Planning shall examine options for easement acquisition on critical  
3 farms and identify those that will enable the Critical Farms Program to succeed.]

4 (C) (1) THE MARYLAND AGRICULTURAL LAND PRESERVATION  
5 FOUNDATION SHALL DEVELOP, IN CONSULTATION WITH THE DEPARTMENT OF  
6 GENERAL SERVICES:

7 (I) A METHOD FOR VALUATING AN OPTION TO PURCHASE  
8 AN EASEMENT ON PROPERTY UNDER THE CRITICAL FARMS PROGRAM; AND

9 (II) A PROCEDURE FOR PURCHASING AN EASEMENT OPTION  
10 FROM THE OWNER OR PURCHASER OF A CRITICAL FARM UNDER THE CRITICAL  
11 FARMS PROGRAM.

12 (2) FOR PURPOSES OF SETTING AN EASEMENT ACQUISITION  
13 VALUE FOR A STATE EASEMENT PROGRAM, A PROPERTY PARTICIPATING IN THE  
14 PROGRAM BY SALE OF EASEMENT OPTION SHALL BE VALUED:

15 (I) AS IF IT WAS NOT SUBJECT TO ANY RESTRICTION  
16 IMPOSED UNDER THIS SUBTITLE; AND

17 (II) IN ACCORDANCE WITH THE VALUATION REQUIREMENTS  
18 OF THE SPECIFIC STATE EASEMENT PROGRAM TO WHICH THE CRITICAL FARMS  
19 PROGRAM PARTICIPANT MAY APPLY TO SELL AN EASEMENT.

20 (3) AFTER A FINAL EASEMENT SALE, THE FOUNDATION SHALL BE  
21 REIMBURSED BY THE CRITICAL FARMS PROGRAM PARTICIPANT FOR THE  
22 AMOUNT THAT WAS PAID BY THE FOUNDATION FOR THE EASEMENT OPTION.

23 (4) THE FOUNDATION SHALL DEPOSIT THE REIMBURSEMENT IN  
24 THE CRITICAL FARMS FUND.

25 (5) THE FOUNDATION MAY BE REIMBURSED FOR EXPENSES  
26 ASSOCIATED WITH THE ACQUISITION OF AN EASEMENT OPTION FROM THE  
27 PROCEEDS OF THE FINAL EASEMENT SALE AND SHALL DEPOSIT THE  
28 REIMBURSED EXPENSES IN THE CRITICAL FARMS FUND.

29 (D) (1) WHEN ACQUIRING A FEE SIMPLE INTEREST IN PROPERTY  
30 UNDER THE CRITICAL FARMS PROGRAM, THE MARYLAND AGRICULTURAL  
31 LAND PRESERVATION FOUNDATION MAY SUBMIT TO THE BOARD OF PUBLIC  
32 WORKS FOR APPROVAL AT THE SAME TIME AS ACQUISITION A PLAN FOR  
33 SUBSEQUENT DISPOSITION OF ALL OR ANY PORTION OF THE PROPERTY.

1           **(2) DISPOSITION OF PROPERTY UNDER THE PROGRAM MAY**  
2 **INCLUDE THE SALE, LEASE, EXCHANGE, OR TRANSFER OF THE PROPERTY.**

3           **(3) ANY PROCEEDS FROM THE DISPOSITION OF PROPERTY**  
4 **UNDER THE PROGRAM SHALL BE DEPOSITED IN THE CRITICAL FARMS FUND.**

5           **(4) WHEN DISPOSING OF PROPERTY UNDER THIS SUBSECTION,**  
6 **THE FOUNDATION SHALL IMPOSE A PERPETUAL AGRICULTURAL LAND**  
7 **PRESERVATION EASEMENT ON THE PROPERTY TO RESTRICT THE USE OF THE**  
8 **PROPERTY TO AGRICULTURAL PURPOSES.**

9           **(5) THE FOUNDATION MAY REQUIRE REIMBURSEMENT FOR**  
10 **EXPENSES ASSOCIATED WITH THE ACQUISITION AND DISPOSITION OF**  
11 **PROPERTY UNDER THIS SUBSECTION FROM THE PURCHASER OF THE PROPERTY**  
12 **AND SHALL DEPOSIT THE REIMBURSED EXPENSES IN THE CRITICAL FARMS**  
13 **FUND.**

14           **(6) PROPERTY CONVEYED UNDER THIS SUBSECTION IS NOT:**

15                   **(I) EXCESS PERSONAL PROPERTY UNDER § 4-501 OF THE**  
16 **STATE FINANCE AND PROCUREMENT ARTICLE; OR**

17                   **(II) SUBJECT TO THE REQUIREMENTS OF § 5-310 OF THE**  
18 **STATE FINANCE AND PROCUREMENT ARTICLE.**

19           **(E) (1) IN THIS SUBSECTION, “FUND” MEANS THE CRITICAL FARMS**  
20 **FUND.**

21                   **(2) THERE IS A CRITICAL FARMS FUND IN THE DEPARTMENT.**

22                   **(3) THE PURPOSE OF THE FUND IS TO FINANCE THE ACQUISITION**  
23 **OF AGRICULTURAL LAND PRESERVATION EASEMENTS ON CRITICAL FARMS BY:**

24                           **(I) THE PURCHASE OF EASEMENT OPTIONS UNDER THIS**  
25 **SECTION AND UNDER § 2-517.1 OF THIS SUBTITLE; AND**

26                           **(II) THE PURCHASE OF A FEE SIMPLE INTEREST IN LAND**  
27 **AND RESALE WITH AN AGRICULTURAL LAND PRESERVATION EASEMENT IN**  
28 **PLACE.**

29                   **(4) THE FUND IS A CONTINUING, NONLAPSING REVOLVING FUND**  
30 **THAT IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT**  
31 **ARTICLE.**



1 (ii) As determined by the Foundation, contain significant  
2 productive agricultural soil or forest soil; and

3 (iii) Be approved for participation in the Partnership Program by  
4 the governing body of the local jurisdiction in which the property is located.

5 (c) Notwithstanding any other provision of this subtitle, an easement  
6 acquired by the Foundation in accordance with this section is not subject to the  
7 ranking, valuation, or development restrictions of this subtitle, except as determined  
8 by the Foundation's board of trustees.

9 **Article – State Finance and Procurement**

10 10–302.1.

11 This subtitle does not apply to:

12 **(1)** the release of a lot subject to an agricultural land preservation  
13 easement under § 2–513 of the Agriculture Article; **OR**

14 **(2) THE SALE, TRANSFER, EXCHANGE, LEASE, OR OTHER**  
15 **DISPOSITION OF REAL PROPERTY HELD BY THE MARYLAND AGRICULTURAL**  
16 **LAND PRESERVATION FOUNDATION UNDER THE CRITICAL FARMS PROGRAM**  
17 **UNDER § 2–517 OF THE AGRICULTURE ARTICLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2011.